she was annoyed over the delay at my husband giving her money." It is obviously clear that she based her demands for money from the 2nd defendant on the sole ground that she had an inalienable right to it. Among a people that seeks to instal filial piety as the corner-stone of their family life, it is conceivable that whenever the mother of the plaintiff fretted over the delay in being given the money she wanted, she would let it be known in no uncertain terms that she was not dependent on her son but that what she asked for was hers by right as belonging to her husband and as the mother of his children. She might be mistaken as the plaintiff is as to her rights under the Chinese law of succession but the position remains that in her view, the property was hers, there for the taking and for the asking. And if she did express herself in so many words, it must be in the presence of the plaintiff with whom she lived for some periods over the years. In such circumstances I come to a finding that the plaintiff knew of the existence of her father's share long before 1964.

It is of course impossible to pin-point definitely the date of plaintiff's first knowing. This being so, the defence of limitation, to my mind, fails, but in all the circumstances of the case, the plaintiff is, in my view, guilty of such laches and acquiescence as on the authority, *inter alia*, of *Clegg* v. *Edmondson* [10] and *In re Jarvis* [11] to disentitle her, on this ground alone, to the reliefs she seeks from the court.

The plaintiff's claim is dismissed with costs.

Claim dismissed.

Solicitors: *Maxwell, Kenion, Cowdy & Jones; Gibb & Co., Ng Chee Kong.*

WAN MOHAMED v. COLLECTOR, KOTA BAHRU

[A.C.J. (Wan Suleiman J.) May 30, 1968]
[Kota Bahru — Land Reference No. 1 of 1967]

Land Law — Acquisition of land — Valuation — Guide to valuation — Land owner to prove that award was inadequate.

The applicant was the owner of land 1 acre 165 *depas* in area which was acquired under the Land Acquisition Act, 1960. The Collector of Land Revenue made an award of $2,000 per acre as compensation. The valuation was based on the market value of neighbouring land in the same locality.

In a reference to the court under section 36 of the Land Acquisition Act, 1960, the land owner appealed against the award of the collector. He claimed that the trees should be valued separately from the land, and asked for $5,000 as compensation for the land and trees. It was admitted that he had purchased the land on August 13, 1962, for $800.

Held, confirming the award of the collector: (1) the purchase price of the land and the sales of similar land within the locality are the best guides for the valuation of land. Taking these factors into account, the collector had not erred in his assessment of the value of the land;

(2) the party claiming enhanced compensation is in the position of the plaintiff, and the burden is on him to produce evidence to show that the award is inadequate.

Cases referred to:—

(1) *In the matter of Land Acquisition Act; Munjit Khetsey*, I.L.R. 15 Bom. 282.

(2) *K. P. Frenchman* v. *Assistant Collector, Haveli*, A.I.R. 1922 Bom. 399.

(3) *Assistant Development Officer, Bombay* v. *Tayaballi Allibhoy Bohori*, A.I.R. 1933 Bom. 361.

LAND REFERENCE.

Ahmad Dzaiddin for the applicant.

Wan Ismail (Senior Federal Counsel) for the respondent.

Cur. Adv. Vult.

Wan Suleiman J.: This is a reference under section 36 of the Land Acquisition Act, 1960.

The land in question is Lot 1665 Mukim Kemubu Pangkal Kalong with a total area of 1 acre 445 *depas*, and the area acquired is 1 acre 165 *depas*.

Declaration in Form D of the intended acquisition was gazetted as G.N. No. 109/66 dated June 16, 1966 as required by section 8 of the Act, and the enquiry by the collector under section 12 was held on July 28, 1966. The collector made an award of $2,000 per acre so that the land owner recovered a total of $2,210 for the area acquired.

At the enquiry before the collector the land owner did not claim any specified amount of compensation, nor did he produce a valuer's report or call a valuer to give evidence on the value of the land. All that he did was to ask that the trees on the land should be given a separate valuation from the land itself. No reason was given for this failure to claim a specified sum as compensation, and I am of the opinion that under para. 4(b) of the First Schedule of the Act, the land owner shall not be awarded any amount in excess of the amount awarded by the collector.

In Form N, the application that an objection be referred to court, the land owner again did not claim any specific sum, but merely enlarged on what he had already said at the collector's enquiry about valuing the trees separately from the land itself. In Exhibit "A" annexed to Form N, the sum of $5,999 was given as the total sum of compensation expected for the trees alone. At the hearing of the reference, the land owner repeated his previous argument that the trees on the land should be given a separate valuation. However, he said that though he had asked for $5,999 as compensation for the trees alone at the enquiry before the collector, he now asked for $5,000 for the land and the trees together.

Under cross-examination he admitted that he had purchased the land on August 13, 1962 for

$800. He went on to say that he had made slight improvements to the land, by which he must have meant that he had planted a number of fruit trees referred to in his evidence.

The land owner called a licensed appraiser, PW2, to give evidence on the value of the land. PW2 had no special professional qualifications beyond the fact of having about 12 years' practice as a licensed appraiser in Kota Bharu. He had inspected the land in January, 1968, and he produced P1, a valuation report. It is significant that in his view there would not be much difference in the value of the trees growing on the land in July, 1966, from that given by him after his inspection in January, 1968. However, when asked whether there would be any difference in the value of these trees in 1962 and 1966 PW2 said that the trees if worth $800 in 1962 would be worth $1,900 in 1966.

Again, it should be noted that this witness gave a separate valuation for the trees.

The collector based his valuation on the market value of land in that locality and on a number of other grounds set out in his grounds of judgment on page 2 of the Land Reference file. The following transactions were taken as the basis for his valuation:—

Lot	*Mukim*	*Area*	*Express Condition*	*Price/Value*
(a) *Transfer No: 2357/65 dated 2.8.65:*				
2051	Kemubu	IA. — 255D.	Dusun	$1,000 ± $800 per acre.
(b) *Transfer No: 1952/65 dated 29.6.65:*				
2711	Kemubu	2A. — 880D.	Getah (4/7 share)	$1,000 ± $600 per acre.
(c) *Transfer No: 2342/65 dated 2.8.65:*				
2434	Kemubu	1A. — 275D.	Getah	$1,200 ± $800 per acre.
(d) *Transfer No: 2162/65 dated 19.7.65:*				
2518	Kemubu	2A. — 915D.	Getah (1/2 share)	$1,400 ± $900 per acre.
(e) *Transfer No: 2360/65 dated 2.8.65:*				
2089	Kemubu	IA. — 580D.	Padi	$300 $1,000 per acre.
(f) *Transfer No: 1157/65 dated 10.5.65:*				
273	Kemubu	0A. — 605D.	Padi	$400 ± $700 per acre.

It turned out that the collector had not inspected lot 1665 before he held the enquiry or at any time thereafter. He was asked to do so by the court and was also asked to inspect a number of the lots above-mentioned. Hearing was resumed on February 27, 1968.

The collector then confirmed that the number of trees referred to in Exhibit "A" on page 6 of the reference file was indeed correct.

He also inspected lots 2051, 2711, 1041, 1552, all of these in mukim Kemubu, the latter two not being among those mentioned earlier. All these lots are within 1 mile from the land acquired and have different degrees of accessibility. The nature of cultivation on all these lots is generally speaking similar to that on the lot acquired. However, he conceded that Lot 1665 was superior to those he had taken as a basis for consideration.

I agree with the collector that it is unreasonable to value the trees growing on the land separately from the land itself, though for different reasons. The recognized modes of valuation, most succinctly set out by Farran J., in the case of *Munjit Khetsey*,[1] are:—

> "(1) If a part or parts of the land taken up has or have been previously sold such sales are taken as a fair basis upon which, making all proper allowances for situation, etc., to determine the value of that taken;
>
> (2) to ascertain the net annual income of the land, and to deduce its value, by allowing a certain number of years' purchase of such income, according to the nature of the property;
>
> (3) to find out the prices at which lands in the vicinity have been sold and purchased, and, making all due allowance for situation to deduce from such sales the price which the land in question would probably fetch if offered for sale to the public."

On the evidence available before the court the second alternative abovementioned need not be considered.

We have evidence, however, that on August 13, 1962 this same piece of land had been purchased by the land owner for $800. The land owner has not been able to show that this price he paid was below the market value of similar land at the time of purchase. Nor have the improvements which he claimed to have made in the way of the planting of additional trees justified an increase in its value from $800 on the date of its purchase to $5,000 on the date of its acquisition in 1966.

As was said in the case of *K. P. Frenchman* v. *Assistant Collector, Haveli*,[2]

> "The sale price of property itself which is under acquisition would be a better guide than a sale of other properties however similar, as the elements of dissimilarity will be least present when the transaction sought to be applied is a previous purchase of the same property which is under acquisition."

Taking into account this valuable guide of a previous sale, and taking also into account the more approximate guide of sales of similar land within the vicinity, I am not prepared to say that the collector has erred in his assessment of the value of the land.

It should be borne in mind that it is for the land owner to prove that the award is inadequate. Broomfield J. in *Assistant Development Officer, Bombay* v. *Tayaballi Alibhoy Bohori*,[3] said at page 364:—

> "The party claiming enhanced compensation is more or less in the position of a plaintiff and must produce evidence to show that the award is inadequate. If he has no evidence the award must stand, and if he succeeds in showing *prima facie* that the award is inadequate, then government must support the award by producing evidence."

Accordingly the award of the collector is confirmed. If there is any error at all in the

collector's valuation he had erred on the side of generosity.

In accordance with section 51(1)(a) the cost of this reference shall be paid by the applicant *i.e.* the land owner.

Collector's award confirmed.

Solicitors: *Rithauddeen & Aziz.*

RAMOO v. ONG AH HO & ANOR.

[O.C.J. (Buttrose J.) May 31, 1968]
[Singapore — Suit No. 1219 of 1967]

Negligence — Highway — Junction controlled by traffic lights — Defective traffic lights — Duty of driver proceeding from minor road to major road.

Damages — Personal injuries — Elbow — Compound fracture dislocation of elbow joint — Pain and suffering — Loss of earnings.

A lorry driven by the 1st defendant came into collision with a taxi driven by the 2nd defendant at a junction between a minor road and a major road. The taxi was proceeding along the one way major road, while the lorry was entering the junction from the minor road. The junction was controlled by traffic lights. At the material time, the traffic lights were not functioning properly. At short intervals, the lights would show green in both directions. The plaintiff, a passenger in the taxi, brought an action against both drivers claiming damages for personal injuries as a result of the road accident. He suffered a compound fracture dislocation of the left elbow joint which needed several operations. It might be necessary to immobilise the elbow joint later.

Held: (1) both the defendants were guilty of negligence in failing to keep any or any proper lookout, and in failing to drive their respective vehicles with any degree of care and caution which the circumstances of the case required and the situation demanded;

(2) the 1st defendant was 75% responsible for the accident as he was proceeding from a minor road on to a one way major road and it was his duty to give way to traffic coming from his right;

(3) there should be an award of $13,000 for pain and suffering, $15 000 for loss of future earnings and $2,000 as special damages.

Case referred to:—

(1) *Joseph Eva Ltd.* v. *Reeves* [1938] 2 All E.R. 115.

CIVIL SUIT.

H. E. Cashin for the plaintiff.

Yap Tyou Min for the 1st defendant.

K. E. Hilborne for the 2nd defendant.

Cur. Adv. Vult.

Buttrose J.: These proceedings arise out of an accident which occurred on the 10th July, 1966, at the junction of Dunearn and Whitley Roads between a motor lorry driven by the 1st defendant and a taxi, in which the plaintiff was a passenger, driven by the 2nd defendant.

The taxi was proceeding along Dunearn Road towards the city while the motor lorry was travelling along Whitley Road in the direction of Dunearn Road intending to proceed across it and over the bridge which spans the canal between Dunearn and Bukit Timah Roads and on into Stevens Road which is in effect a continuation of Whitley Road.

The accident occurred in broad daylight on a Sunday morning at about 7.30 a.m.

This entire junction, *i.e.* the Dunearn/Whitley Road junction and the Bukit Timah/Stevens Road junction, is controlled by traffic lights.

Both the 1st defendant and the plaintiff said that the traffic lights at the Dunearn/Whitley Road junction appeared to be in order and each of them maintained that as they reached the junction on courses at right angles to each other the lights controlling their respective entries on to and across the junction were green and in favour of each of them. The taxi driver (the 2nd defendant) was not called as Mr. Hilborne who appeared for him elected to call no evidence and took the stand that no *prima facie* case of negligence had been made out against his client.

The independent police evidence established quite clearly that at the material time the traffic lights controlling the entire junction were defective and not functioning properly. Apart from the other police evidence there was the evidence of police constable Say Lip Buck who said that as he was returning to his barracks at Wayang Satu after coming off duty at Orchard Road Police Station he noticed that the traffic lights were out of order. This was about 7 a.m., some half an hour prior to the accident. The other police officers said that the traffic lights were still out of order after the accident.

I find as a fact that at the material time the traffic lights were defective and not working properly at the junction.

The evidence established that the traffic lights facing traffic approaching the junction from Whitley Road changed from green to amber and then back to green again with no red light appearing at all. The traffic lights facing traffic approaching the junction down Dunearn Road changed correctly from green to amber and then to red in their proper sequence but the changes were at a very fast rate and not at their normal speed.

According to a police corporal who was at the scene after the accident, and whose evidence I have no hesitation in accepting, at various stages during this malfunctioning of the traffic lights at the junction the lights controlling the traffic in both direction would be showing green for brief periods at short intervals.

What then are the principles of the law of negligence applicable to these findings of fact?